

Pro: Frith
THE
TRYAL
OF
Slingsby Bethel Esq;
UPON AN
INDICTMENT
PREFERRED BY
Robert Mason
AGAINST HIM,
Of which, he was found GUILTY.
AT THE
General Quarter Sessions of the Peace,
FOR THE
Town and Burrough
OF
SOUTHWARK,
AT THE
Bridge-House.

Holden and kept before the Right Honourable
Sir Patience Ward, Lord Mayor of the City of
London, Sir Thomas Allen, Sir William Hooker,
Sir Thomas Bloudworth, Sir James Edwards, and
Justice Pyrs, on *Wednesday, October 5. 1681.*

London: Printed for R. Harbottle. 1681.

THE PREFACE.

Reader,

That you may have a full Sense and Understanding of the following Indictment, and what what ensued thereupon, it is necessary to acquaint you with all the Circumstances of the last Pole, upon the Election of Members to serve in Parliament for the Town and Bourrough of Southwark, from whence the pretence for this Indictment was taken.

The Pole began on Thursday the tenth of February 1680. and continued until Tuesday following, full five days.

The Candidates were Sir Richard How, and Mr. Peter Rich, on one part; Slingsby Bethel, and Edward Smith, Esq; on the other part.

The place of Pole was the Old Artillery-House in Southwark, which is Ascended out of the Artillery Ground, by six or eight large Stone steps, with two half Spaces, the uppermost at the entrance into the House, being Banistered about, is so Capacious, as will hold a hundred persons or more.

The method of Poling was by filling the House, from the doors that open upon the half Space, then shutting them, until they within were all Poled, and let out at a back door, and so filling the House again.

Upon the first half Space, was planted one Sam Samis, a known Hectoring Carr-man, and two water men of the largest size, fetched from Lambeth, or thereabouts.

These men obstructed coming up to the Pole-House, all such as they knew, or suspected were Friends to Bethel and Smith, to the hurting some; discouraging others, and causing many to go away.

This rudeness was several times complained of to Mr. Bethel, who kept in the Pole-House, but being pressed to endeavour to reform this disorder, at last, and on the fourth day of the Pole, he went along with those that fetched him, but found then upon the forementioned steps, no more in that Hectoring posture as was represented to him, than Sam Samis, and Robert Mason.

Mr. Bethel applying himself first to Mason, asked him in a milde and Civil manner if he had a right to Pole? and upon his denial that he had, desired him to withdraw, and not disturb the Peace, and so took him by the Arm (he having a wide Camlet Coat over his Red Coat) and led him gently down, who followed without resistance (or any such Dialogue, as is falsely suggested to have passed betwixt them,) and went quietly away.

After this Mr. Bethel asked Sam Samis the same Question as he had done his Companion Mason, who answering that he had a right to Pole, took him by the hand, and led him in at the back door to Pole, at which How and Rich seemed displeased, though Rich did cunningly speak to him, to Pole for Bethel and Smith, intending (as may well be supposed) that he should thereby

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thereby defend himself, against Bethel and Smiths Complaint, of his rude and disorderly Carriage; but the Dull Fellow, not apprehending the meaning of it, Poled for ~~the~~, How and Rich.

And now this being all the ground there was for an Indictment, one that pulls another by the Sleeve to speak with him, may as well be Indicted for so doing, as Mr. Bethel was for what he did.

Having this occasion to take notice of the manner and way of Poling in Southwark, I cannot but upon the whole observe, That the Inhabitants thereof lye (at the times of Poling) under great oppression, in the expence of five or six days; when fewer hours might serve the turn, could the Bayliff be prevailed with, to follow the example of London, (where double the number of True Electors in Southwark, are Poled in four hours) by having several Writers and Pole-Books, especially the Artillery House being so convenient for the purpose, as nothing can be more; and the benefit in putting this in practice, is backed with these Cogent Reasons.

First, Because the Industrious sort of Inhabitants will hereby save the attendance of four or five days.

Secondly, Because the doors of the Pole-House standing open, and the people understanding, that every one in three or four hours will be dispatched, it will prevent Quarrelling and Rudeness in coming to the Pole, and discourage Factious Persons, from sending for Hectoring Fellows, to espouse a particular Party, in opposition to all others; as was done the last Pole.

Thirdly, The Candidates will hereby be prevented, in Raking the Prisons, Hospitals, Almshouses, and Streets, for Beggars, and the adjacent Neighbourhood for necessitous persons, to the swelling the number of Electors to above double of what they really are, as was done the two last Poles; the first having Poled near four thousand; and the latter above three thousand; whereas there are not in all above eighteen or nineteen hundred in the Bourrough, that have a right to Pole; whereof we found the last Pole, by Examination of the Church-Books, no more to appear than thirteen hundred, that payed to the Poor, the rest being abated by Widdows, Aged, Sick and Absent Persons: of which number of thirteen hundred, How had five hundred eighty six, Rich five hundred eighty three, Bethel seven hundred and three, and Smith seven hundred and sixteen; so that though by the Pole at large, How and Rich had near three hundred more than Bethel and Smith, these two latter, upon a true account, had near one hundred and thirty more than the two former, as may be observed by the above mentioned Numbers.

Fourthly, Because so long as this method of Poling is continued, the Burrough of Southwark will never be truly represented in Parliament; the Candidates that live upon the place, being always able to make their Numbers by illegal Polers, as great as they please.

Antiently, and in the memory of some living, none were admitted to the Election, but such as by their Taxes appeared to be the most Substantial Inhabitants, which was acquiesced in without Poling; but of late that way is not only by the Bayliff, increased to all that pay to the Poor, (against which none can object) but even to all that will but say they are House-Keepers, under which notion it is, that the true Electors are abused.

This Fraud hath been complained of to two Parliaments, but both Dissolved before business came to Hearing, otherwise it is more than probable it would have been Reformed.

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The last Election, Bethel and Smith, being sensible that there was no Poling for them against all the Beggars in the Town, they with many Inhabitants, propounded to the Bayliff, to Pole by the Poors Books, and to convince him of the reasonableness thereof, delivered him the Opinions of two Serjeants at Law, and one Benchet, under their own hands, that none had right to Pole, save such as at least paid to the Poor, and also enforced this Opinion, by the Votes of the Commons in Parliament, in the Case of other Burroughs, fully to the same effect: But though the Bayliff confessed it was but reasonable it should be so, yet he would not be prevailed with, to do that which he owned to be reasonable; from whence it is, that the Burrough hath not had in the two last Parliaments Representatives, which have been duly Chosen by true Electors. And thus much may suffice at present, to shew the irregular, and unjust way of Election of Members to serve in Parliament, for the Town and Burrough of Southwark.

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THE

TRIAL

Of

Slingsby Bethel Esq;

On Wednesday the fifth of October 1681 at the
 Bridge-house in Southwark, before the Right
 Honourable Sir Pimence Ward Lord Mayor, &c.

The Court being sat, the Jury were called as followeth,
 whose Names are desired to be mentioned with their distinctions,
 because there are several others in Southwark of the same
 Names.

JURY-MEN.

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| Edward Collingwood Brazier, alias Tinker. Francis Waker Comb-maker. Zebulon Newington Chandler, alias Salter. William Head, Woollen-Draper. Humphrey Roberts. John Allyn Baker. | John Morgan Grocer. William Morice. Francis Ferrey. Richard Frankling. Thomas Wade Butcher, and private Informer for the Custom-House. Edward Kemp Ale-Draper. |
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Being Sworn, the Indictment was Read.

The Indictment at the General Quarter Sessions of the Peace, of our Sovereign Lord the King, for the Town and Burrough of Southwark, in the County of Surrey, at the Bridge-House within the Town and Burrough aforesaid, to wit the twenty ninth day of June, in the Thirty Third Year of the Raign of our Sovereign Lord Charles the Second, King of England, &c.

THE Jurors for our Sovereign Lord the King, upon their Oath do present, That Slingsby Bethel, late of the Parish of St. Olaves Southwark, within the Town and Burrough aforesaid, in the County of Surrey, Esquire, on the twelfth day of March, in the Three and Thirtieth Year of the King, with Force and Arms, at the Parish aforesaid, and within the Town and Burrough aforesaid, in the County aforesaid, in and upon one Robert Mason, at that time one of the Kings Watermen, in the Peace of God, and of our Lord the King, then and there standing, did Assault and make a Battery, and the said Robert Mason
 them

then and there most griveously, and dangerously did Beat, Wound, and evil Intreat, so that his life was greatly dispaired of, and other Innomities that then and there he offered to, and brought on the said Robert Mason: and that the same Slingsby Bethel, then and there (to wit) the same twelfth day of March, in the Thirty Third Year aforesaid, in the Parish aforesaid, in the Town and Burrough aforesaid, in the County aforesaid, in the presence and hearing of very many of the Subjects of our Sovereign Lord the King, then and there to the said Robert Mason, he spake, uttered, and with a loud voice, declared and published these provoking, threatening and approbious words (to wit) Syrrah, pointing to the said Robert Mason, (saying thus) *Slingsby Bethel: I will have your Coat* (a certain Cloth Coat of a Red Colour, with which the said Robert Mason, then and there was covered, and adorned with a certain Badge of our said Lord the King upon the said Coat) *plucked off your back*, to the great terrour, disturbance and trouble of Divers, of our Sovereign Lords liege People and Subjects, being then and there present, to the evil example of all others offending in the like Case, as also against the Peace, Crown and Dignity of our Sovereign Lord the King, &c.

Councillor
Peasely.

MY Lord, and you Gentlemen of the Jury, *Slingsby Bethel Esq;* stands indicted, for that he the said *Slingsby Bethel*, made an Assault and Battery on *Robert Mason*: as also for Menacing and Threatning Words; saying to him, the said Robert Mason, *Syrrah I will have your Coat plucked off your Back*, to the great terrour and damage of the said Robert Mason, &c; to which Indictment he has Pleaded not Guilty.

Mulloy, My Lord, and you Gentlemen of the Jury, I am Council for the King against *Slingsby Bethel, Esq;* who upon the twelfth day of March last, in the Thirty Third Year of the King, did Assault *Robert Mason*, one of the Kings Watermen, and did injuriously beat and strike the said Robert Mason, did give several opprobious words, saying he would have his Coat plucked off his Back, &c. To which he Pleadeth not Guilty.

Holt. My Lord, and you Gentlemen of the Jury, I am Council for the King against *Slingsby Bethel, Esq;* You understand the Issue you are to Try, it hath been opened: the question is, Whether Mr. *Slingsby Bethel* be Guilty of this Battery, and the matter contained in the Indictment, and the Agraving words therein, or no. The occasion was, that in March last, there was an Election for two Burgeses, to be chosen to serve in Parliament, for this Burrough; this *Robert Mason* was desired to come from *Lambeth*, to see whether any of that Parish came to Pole, which had no Right so to do. The Competitors were Sir *Richard How*, Captain *Rich, Slingsby Bethel*, and *Edw. Smith*, Esquiers, Mr. *Slingsby Bethel*, shewed at his entrance into the Burrough what Inclination and Temper he came with, for his Followers, and such as came with him, came with their God-Damne's, and several execrable Oaths against those that Voted against him; after the Election began, and the Pole demanded, truly then Mr. *Bethel* Acted his part, and took occasion to go off from the place where he was, and strike several Persons that were Acting against him; particularly this *Robert Mason*, finding him to be against him, took his

his Cane, and knocked him over the Pate, and afterward knowing him to be Kings Waterman, said he deserved to have his Coat pluck'd over his Ears; were the affront against him as a single person, it were not of so bad Consequence, but we are to take notice of the Solemnity of the occasion of the Meeting, now consider the occasion, it was for the chusing of Parliament men, and had it not been for the prudence of the Waterman, in forbearing to strike again, God knows the effects, and what an uproar it might have occasioned: but he prudently refrained, and took his Course in a Legal way, and according to Law hath preferred this Indictment against Mr. *Slingsby Bethel*. Now though the said Mr. *Bethel* be so great a man, and a person of value, lately Sheriff of the City of London, and he *Robert Mason*, appearing to be but a poor Waterman, yet I don't question, he will find an *English* Jury to do him right.

Kings Council. Call Mr. *Robert Mason*, *Arthur Adams*, *Tho. Walbrooke*, *Griffin Meade*, *Tho. Smyth*, *Alexander Dory*, *Lawrence*.

Councillor *Holt. Mason*, What can you say on the Kings, and your own behalf concerning this Matter.

Robert Mason. I was standing upon the steps by the door in the Artillery Ground, and Mr. *Bethel* came and gave me divers blows, on the stairs, knock'd me with his Cane, and followed me down beating of me, and said, *Sirrah, I will have your Coat pluck'd over your Ears*, and I answered, *So you would my Masters too, if you could*.

Councillor *Thompson*. By whose Sollicitation came you there?

Mason. I was desired to be there.

Thompson. What did he strike you also with his Fist? *Mason*. Yes.

Thompson. Where did he hurt you with all his blows?

Mason. On the Breast.

Thompson. How many blows?

Mason. He gave me twenty blows at least, I can swear safely, but how many more I know not.

Thompson. Did not you, before Mr. *Bethel* came there, Interrupt the peoples coming to Pole, and what did Mr. *Bethel* say?

Mason. He asked what I did there, and bid me go down.

Justice *Pyrs*. Did Mr. *Bethel* single you out from the rest of the Company. *Mason*, Yes he did.

Kings Council. Call *Adams*. *Adams*, What can you say? did you see Mr. *Bethel* strike *Mason*, and what words did he say?

Adams, First Witness. There was a Tumult at the stairs, and they called to me, being Constable, and when I came, Mr. *Bethel*, and *Mason* were together, and a great company followed them, I said Sirs pray keep the Peace, and I saw Mr. *Bethel* gave him two or three shugs, and said, *Sirrah, I will have your Coat off your Back*, and *Mason* answered, *I, and so you would my Masters too, if you could*.

Holt. Adams, Tell the Court what do you think would have been the Consequence if *Mason* had struck again.

Adams. It would have been of a sad Consequence.

Holt. What was Mr. *Bethel's* behaviour, when he entered into the Burrough? Did you see him come into the Burrough?

Adams. They came in and cryed no Abhorrrers, no Abhorrrers.

Thompson. Did you hear Mr. *Bethel* say so? *Adams*. No, Did you hear him Swear? *Adams*, No. *Thompson*. VVho was it that swore?

Holt, He that rid first.

Thompson, Mason said Mr. *Bethel* gave him twenty blows, did you see it?

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Adams.

Adams. I was not there all the while, I did not see it.

Third Witness. Thomas Walbrooke, what can you say to the case in hand?

Walbrooke. I stood by the stairs when Mr. Bethel passed by, I saw Mr. Bethel thrust him down the stairs, and I said, *Robert take care what you do:* Mr. Bethel said, *Sirrah come down;* *Mason* said, *I will come when I see my own time, I do no body any hurt:* Mr. Bethel answered, *I will command you to come down;* and his answer was, *I will when I see my own time.*

Thompson. Did you see any blow given by Mr. Bethel?

Walbrooke. No, I saw none, I won't swear to any blows, but I saw two or three pushes in the breast, he pushed him back.

Thompson. And how many blows were given, ten or twenty, or how many?

Walbrooke. I will not answer any thing concerning that.

Thompson. Upon the Oath you have taken, being (I think) you are an Honest man, had the Waterman this Coat on at that time? Or had he not a Campaign Coat over it?

Walbrooke. He had that Coat, but I don't remember any other.

Kings Council. Call Griffith Meade. Give an account of what you can of this matter.

Griffith Mead. I saw a great number of People come to the Place, and saw Mr. Bethel give him a push, and that was all.

Thompson. What words did you hear?

Meade. No words.

Thompson. How was this man Cloathed? Was he cloathed with this Coat, or had he not a Campaign Coate over it?

Meade. I cannot tell.

Thompson. Upon the Oath you have taken, how many blows did you see given, because they say Twenty?

Meade. No blows at all, but a little push.

Call Thomas Smith, he Appeared. What do you know?

Smith. As Robert Mason and my self stood together, Mr. Bethel came round the burying Place, and he brought a great Multitude of Persons with him, and bid Mason come down the steps; Mason Answered, *I will come down when I see my time.* Mr. Bethel said, *If you will not come down, I will have your Coat pluckt off your back;* afterwards, many words passed, which I cannot remember, and Mr. Bethel pushed him on the breast.

Second Council. Mr. Smith Pray give the Court an Account of the Behaviour of the men that followed Mr. Bethel, did you not see Mr. Bethel give Robert Mason a push when he was in the Artillery Ground?

Smith. I saw none.

Holt. What do you think the Consequence had been, if Mason had struck again?

Smith. Had he given any blows again, I do believe a hundred and a hundred had been Slain.

Thompson. Smith, pray give an Account of the behaviour of the men that came with Mr. Bethel, and what Coat Mason wore, and whether he had not a Campaign Coat on it?

Smith. Sir I know not that, but he had the same Coat then on his back, which he has on now.

Thompson. Why what made you think, if Mason had struck Mr. Bethel, that it would have made such a great disturbance?

Smith

Smith. Because he was the Kings Servant.

Call Alexander Dory. Dory. Give the Court an account of the Matter in Question, did you see Mr. Bethel give *Robert Mason* any blows?

Dory. Sir, Mr. Bethel gave him some pushes in the breast, and said, *He would have his Coat off his back.*

Thompson. Had he the same Coat on as now he hath?

Dory. I saw the same, and no other.

Mulley. Call Lawrence, he appeared. Lawrence give the Court and Jury an Account of what you know of the Quarrel between Mr. Bethel and *Robert Mason*; Did you see Mr. Bethel give him any blows? and give an account of the behaviour of Mr. Bethel and his Company, when they came into the Burrough.

Thompson. This Indictment is for an Assault and Battery, if you can give any account of that do, but not of the behaviour of those that came with Mr. Bethel; that is not the Matter at this time.

Holt. I Answer, Sir it is not, but we ask the question, to make out the behaviour of Mr. Bethel and his company, and shall leave it to the Jury what Judgment to make of it.

Lawrence. I saw the persons that came with Mr. Bethel, Hectoring and Swearing at a strange rate, and the persons which did before cryed, *Hollow, Hollow.*

Thompson. I Appeal to Mr. Holt, What if *John an Oakes* or *Tom a Styles* Swear and Hector, &c. shall Mr. Bethel Answer for that, in a matter that falls out long afterwards, as this did?

Lawrence. I saw their behaviour, as I have said, and when Mr. Bethel came to *Robert Mason*, he stood with his hands behind him, Mr. Bethel bid him come down, he said no, he would not; then said Mr. Bethel, *I will pluck your Coat off your back*; and *Mason* Answered, *I and so you would my Masters too, if you could.*

Lord Mayor. Did Mr. Bethel Swear when he came into the Burrough?

Lawrence. No. Lord Mayor. Who did Swear? *Lawr.* He that Rid first.

Mr. Thompson. May it please your Lordship,

I am of Counsel for Mr. Bethel the Defendant, who has been, and stands Indicted for making an Assault and Battery, upon *Robert Mason*; and for speaking many menacing and threatening Words, as *that he would pull his Coat over his Ears*, &c. And for giving several blows; unto which, we have Pleaded *Not Guilty*. They have produced several Witnesses, and *Robert Mason* himself, (who is so thorow-stitch in the Case) that he swears so, as no one can believe him, for his own Witnesses do not; for they do not Swear, nor pretend to Swear like him, being not able to stretch at that rate; he is desperately mistaken, to speak the best of him.

For this *Mason* Swears Mr. Bethel gave him Twenty blows at least, but how many more he cannot say; see how this will look, when we shall prove (by Substantial and Credible Men) that not one blow was given, or push either; but suppose he were pushed, yet his Evidence agree not one with another; for some swear to one push, some to more; but Mr. *Mason* swears to the full number of Twenty blows at least, and that positively, but how many more he doth not remember. But suppose it were so, yet the matter is not so much, but what may be justified by the occasion given, and what would be a good Plea in Law, in an Action, will be the same upon Pleading, *not Guilty*, in this Case.

My

And I did not see any other persons in the Court.

My

My

May it please your Lordship,

The occasion of Mr. Bethel's coming here, was this, being about the Chusing of Parliament men for this Barrough, the Competitors were Sir Richard How, Mr. Rich, Mr. Bethel, and Mr. Smith; there was a House wherein they appointed to Pole, called the Artillery-House: When they came to take the Pole at this place, where there is a pair of stairs which leads to the door, the manner of taking the Pole was thus, first to fill the House, by that door to the stairs, and after they had Voted to put them out at the other door; this being the occasion of the Battery (however agravated) will to all that know it, or shall take the matter into consideration, seem a very shameful thing, to ground an Indictment upon. But this *Mason*, a very officious man, who had no Right to Pole, (as himself confesses) and who might have spared the trouble (for any Authority he had) of coming there, and it might have been better he had staid at home, by what he has Sworn, this man and one *Sam Sams*, a Hectoring Carr-man, were set upon the stairs; and their business was not (as they now pretend) to take notice who were fit to Pole, but to understand who were for Mr. Bethel, and Mr. Smyth, and those they did abuse, and push them down the steps, which Mr. Bethel being informed of, came out of the House, and spake Civilly to them, and said, *Friends what have you to do here, if you have not a Right to Pole come down from the place*, which *Mason* refusing, the Defendant took him gently by the hand and led him down the steps, giving neither blow nor push: we Shall call Witnesses to prove this.---Now for A Gentleman that stood as one of the Competitors for a Parliament Man at that time in that place, he might do this to a Person that had nothing to do there, nay they themselves say there ought not to be any Interruption at an Election, and that the Interruption was from themselves and that occasioned the mighty Battery they make so much of. We shall call our Witnesses, and shall make this matter appear to be our Case, and then though *Mason* hath spoken of Twenty Blows, if believ'd, as there is but little Reason for it, it will be sufficiently Justified by the Witness we shall Produce, and the Evidence we shall give in this matter.

Call Mr. *Nath. Travers* Constable, Mr. *Benjamin Tarrant*, Mr. *George Hampton*, Mr. *Mark Clark*, Mr. *Thomas Weeks*, Mr. *Benjamin Gerrard*.

Thompson. Let us begin with Mr. *Traverse*. Mr. *Traverse*, What Account can you give of the matter?

Traverse. May it please your Lordship,

I Remember it as if it were but just now; I was called out of the House to come to this Door, hearing the People were in a very great Disturbance, I came to this *Robert Mason*, And said, What do you there to make this Disturbance? Have you a Right to Poll? He answered, It may be I may. I told him, If he would not be civil, I should take a Course to Indict him.

Thompson. And what was he doing?

Traverse. He was Throwing People from both sides with his Elbows, in this time A Report being carried to Sheriff *Bethel*, of a Persons Legg broken, and a man like to be Kill'd, Sheriff *Bethel* came to the Steps and took him just by the Arm thus---[*Shewing the manner*]---and said, Pray Friend, what hast thou to do here? hast thou a Right to Poll? at first he said he had, afterwards he said no; then said Sheriff *Bethel*, Pray go about your Business: Mr. *Bethel* gave no Blow, nor did so much as shew any Passion, or Angry Countenance. And said no more. But others said, *Mason* was a Rude Person, and that he Deserved to have his Coat Pluckt over his Ears.

Thompson. Did you not hear Mr. *Bethel* say so?

Traverse.---No, but it was said by some of the Company.

Thompson. I ask one Question more, *Mason* said he had Twenty Blows, what say you to that?

Traverse. He had not one upon the Oath that I have taken.

Thompson. Had he this Coat on or no.

Traverse. Truly I know not, I cannot tell, but he had a Badge, whereby he Discovered himself to be some Gentlemans Servant.

Thompson. Was *Sams* there?

Holt. Mr. *Thompson*, is that a fair Question?

Thompson. I did it purposely to try your Observation, you would call to what others did long before the Battery, I must not ask if one was there at the time of the Battery.

Holt. Did you not see Mr. *Bethel* on the Artillery Ground, was not *Mason* Pusht there.

Travers

Travers. I tell you, Sir, there was not one blow given.

Holt. Then you did not see the quarrel on the Ground?

Travers. I tell you, there was no quarrel on the Ground; I stood on the Steps when Sheriff *Bethel* came, and the Sheriff, when he was half way the Steps, seeing the Water-man's posture he was in, said, Friend, have you any thing to do to Poll; if you have not, why do you make a Disturbance? He answered, It may be I have, and it may be not: Pray Friend, said Sheriff *Bethel*, if you have not, come down: I went from thence about the Ground, and did not see the least blow given, or any appearance of Passion.

Thompson. Before Mr. *Bethel* came, how did this Man behave himself, did he not shout and behave himself rudely?

Holt. Let him speak of himself, let not Words be put into his Mouth.

Thompson. Had he a Red-Coat on? *Travers.* I cannot say it.

Thompson. Mr. *Tarrant*, what can you say?

Tarrant. I was on the Ground when the Sheriff came, I was at some distance; but upon the Oath I have taken, I saw Mr. *Bethel* and the Waterman coming together; but I saw no blow, and I am sure there was not one blow given.

Mr. Weekes. Give an account of what you know.

Weekes. My Lord, I saw Sheriff *Bethel* when he came into the Ground, and went up the Steps, I made haste after him, and was there all the while, and there was nothing like a blow; but all he did was to this purpose: Pray Friend, (said he) if you have no right to Poll, go your way, what have you to do here? and I followed after him into the Artillery Ground, and there was nothing of a blow, or any thing like it.

Thompson. You were there all the while?

Weekes. Yes, I was.

Thompson. Yet *Mason* saith, there were twenty blows given.

Weekes. Upon the Oath I have taken, there was none, nor any thing like it.

Holt. Mr. *Weekes*, do you live in *London*, or do you live in the Burrough?

Weekes. Sir, I live in *London*.

Holt. What is this Witness to the purpose then?

Thompson. May not a Man live in *London*, and be a good Evidence here? Notwithstanding, call Mr. *Gerrad*.

Mr. *Gerrad*, what can you say?

Gerrad. My Lord, I was in the Ground before Mr. *S. B.* came out of the Polling-House, and I saw this Waterman and *Sam. Sams* thrusting of People down, that seemed to be for Mr. *B.* and *Smyth*, crying *How* and *Rich*.

Weekes. My Lord, my memory failed in this point; but upon the Oath I have taken, what that Gentleman swears, it is true.

Thompson. Pray, Sir, (as you seem a sober Man) were any blows struck by Mr. *Bethel*?

Gerrad. I went with Sheriff *Bethel* there at that time, and he asked the Waterman what he had to do there? I cannot well tell what

answer he made: But Mr. Sheriff said, if you have no right to Poll, pray go about your business; upon the Oath I have taken, he did not strike one blow, no more than he doth now standing in this Court before your Lordship.

Lord Mayor. Was there any pushing, or thrusting, by Mr. Bethel?

Gerrad. Upon my Oath, my Lord, not any.

Thompson. And you say you were there all the while, and saw no disturbance given by Mr. Bethel?

Gerrad. I am sure there was not.

Thompson. Had he this Coat on or no, or had he not a Campaign Coat on?

Gerrad. To the best of my remembrance he had a Campaign Coat on, and I believe he had.

Thompson. Mr. Hatfield, pray give an account of what you know of this matter.

Hatfield. There were two Men which I saw in Red Coats, which pulst down the People that came to Poll for Mr. Bethel, before Mr. Bethel came; and had not Mr. Bethel come to appease the Tumult, I do believe there had been much mischief done by them and Sams, &c.

Thompson. Upon the Oath you have taken, were there any blows given?

Hatfield. No, Sir, there were none.

Thompson. Were there any blows given by Mr. Bethel?

Hatfield. No, Sir, not one: for Mr. Bethel being informed of the incivility of Mason and Sams, Mr. Bethel came Civilly to them, and intreated them to come down, and bid them be gone, and not make a Disturbance.

Mulloy. Call Lawrence again, to shew that Mason did not make the Disturbance.

Lawrence. I saw Robert Mason, and the Party with him, behave themselves very Civil; and the Disturbance that was, proceeded from the other Party.

Thompson. This is the same Man we had but now, he is called to Witness again; a pretty way of multiplying Witnesses: I appeal to Mr. Mason himself, whether this be not the same Man you called once before?

Thompson. My Lord, and you Gentlemen of the Jury, I think the Case is plain, and needs no Arguments: I shall onely take notice how careful these men are (as they pretend) to keep the King's Peace. The matter you see, in short, is, Mr. Bethel (who stood for a Parliament Man of this place, and at the same time bore an Eminent Character, (as Sheriff of the City of London) upon Information given of the Disturbance made by this Mason, and of the unfairness of their proceedings, only came Civilly, and took him by the Arm, perswading him to come away, and make no Disturbance. And this is the truth of the Case, and the mighty Battery they pretend to. Now suppose, that when People are in such a Crowd, and upon such an occasion, there were some pushes, (as is the utmost here pretended) could this be a sufficient matter to ground an Indictment upon? No, Gentlemen, no: This Indictment, and the Design of it is to raise a dust, and (if possible) to cast

cast Reflections on Mr. *Bethel*, but is more than they can do in point of Law, by any matter here proved, if *Mason's* Witnesses do swear true; yet you see how *Mason* behaves himself, crying *How* and *Rich*, striking down all that came between *Sam. Sams* and him; so they broke the Peace, and raised the Disturbance themselves. And in that case any Man (and why not Mr. *Bethel*?) might have taken him, and carried him before a Magistrate, and have justified it. But now, for the Credit of the thing; you see none swears it but *Mason* himself; but even he swears to that Impossibility, so over-reaches the matter through the excess of his Passion in swearing, that no one can believe him; if he had sworn modestly, as the rest did, to two or three pushes, it might have been Credited; but to twenty blows, no one can believe it; neither doth any one of his own Witnesses swear like him, or of so much as one blow given: So there is not one word *Mason* saith can be Credited.

Then, my Lord, admit it be so; yet you saw Mr. *Bethel* was not the Person that first began this Disturbance; now if the other Party had been Indicted and Tried, (as indeed it had been much more fit they should) we could have proved much against them.—

And as to the Fact and manner of what Mr. *Bethel* did, it was no more than coming in a civil manner, asking whether he had a right to Poll? when he said no, he took him civilly by the Arm and led him down; and this is a Justifiable assault, being the Nature of the thing required a necessity of somewhat of Action in it. I appeal to you of the Jury, whether here be any Cause for this Indictment, or colour of Reason for you to find it?

Holt. Gentlemen of the Jury, you have heard the Evidence on both sides, and the question is, Whether, in your Consciences, you can dis-believe Eight Witnesses, that swear positively to the Battery, and believe those Witnesses that did not see it? if you acquit Mr. *Bethel*, you must necessarily Convict Eight Persons of Perjury: But if you do not find for Mr. *Bethel*, the other Witnesses cannot be Convicted of Perjury; for how can Men swear, (though they were there all the time) that they did not see? possibly they may be very honest Men, and present at the time, and yet not see *Bethel* strike, and so not swear to it: But our Witnesses swear very true; I hope you will be guided by Sense and Conscience, and not by Spectators humours, and apprehensions, that come here and hiss in a Court of Justice. Now Eight Witnesses swearing it, I do appeal to the Court, whether in matters of this Nature, one Witness for the Affirmative, be not more valid than many of the Negative?

They take notice of the impossibility, and why, because they swear (as they say) at an extravagant rate, that Mr. *Bethel* gave him Twenty blows.

Gentlemen, if Mr. *Bethel* will beat a Man extravagantly, it is not extravagancie to swear it: Now *Mason's* Evidence is confirmed by all the rest produced, and no Contradiction: If one swear to ten, and another to two, and another to three, is this inconsistent? No, Gentlemen, it is Evident those Men swear Cautiously and Fearfully, for if other wise, they could swear to as many as Twenty, as *Mason* hath

hath

hath done: Who is the best Judge, he that felt the blows, or they that Swear there was not one given? He that felt them, I am sure.

Gentlemen, It was in a Crowd, 'tis possible they may not see all; yet their Evidence is a concurring Circumstance.

Next I come to the point of Law, how a Man that is a Candidate at an Election, can beat any Man that stands in his way; I do not understand that to be Law: if any Man had beaten Mr. *Bethel*, he might have beaten him again in his own Defence; but there was no such thing. Mr. *Bethel* saw no Disturbance himself, but was informed of it, and so became too Officious; though he was Sheriff of *London*, yet he was not an Officer there; for he was not a Constable there; and it was a Constables Office, and he only could have seized him, and not a Constable neither, unless he had seen the Kings Peace broken.

And as to what Mr. *Thompson* saith, that it is impossible that such an Election should be carried on without some bustle; It's true, in a Crowd Men Jussling one another, and by accident strike another down, it's no Battery; But, is it necessary for Mr. *Bethel* to thump a Man on the Breast? Is it necessary for Mr. *Bethel* to beat a Man with his Cane? Is it necessary for Mr. *Bethel* to give a Man Twenty blows? Is it necessary for Mr. *Bethel* to pluck a Mans Coat off his Back? Is it necessary to an Election? It is not necessary, and so being not necessary, is not by Law Justifiable. Gentlemen, as Mr. *Thompson* saith, it is a Case of Example; I say so too; and it is fit Persons that will do such things, should be made an Example.

Justice Pys afterwards summed up the Evidence, and told the Jury, (as Mr. *Holt* the Counsellor for the King had before well observed) that they were to have regard to the Positive Affirmative Evidence, *Mason* having sworn positively to several blows that were struck by Mr. *Bethel*, and that Eight Witnesses had sworn in the Affirmative; and that though there were Seven Witnesses produced by Mr. *Bethel*, which were on the Negative part; yet they were to observe, that the Law did not allow of those Negative Evidences: But for that so many had Sworn in the Affirmative, that they saw a thing done, and as many Swear that they saw it not; he could not tell what to say, but to leave it to the Jury; saying, that one Affirmative was better than Forty Negative Oaths.

So the Jury went out, and in a very short time were pleased to find the Indictment, and brought Mr. *Bethel* in Guilty.

Then Mr. *Bethel*'s Counsel moved in Arrest of Judgment, for that no Indictment lay for the Words, and the Court for that Reason stayed the Judgment, as to that part of the Indictment, and gave Judgment only as to the Assault and Battery, and Fined Mr. *Bethel* Five Marks. Upon which the Counsel for the King moved to have him taken into Custody, until he paid the Fine, which he presently paid, and so was Discharged.

THE Crowd was so exceeding great, that I could not take this Trial so exactly as otherwise I should have done, but the Defects are only to the prejudice of Mr. *Bethel*.

POST.

POSTSCRIPT.

Having as a Preface to this Trial, shewn the occasion of the Indictment, I shall now make some Observations upon the Prosecution of it.

And first, As to Mason, those that know him best, think it as improbable (his Estate considered) that he should be at the Charge of three Counsel in this business, as it is that a man of his bulk and temper should tamely receive Twenty blows with a stick, without returning one; or be pursued with blows in the presence of five hundred men, at least, without having it taken notice of by any one besides himself; or especially, that his Partner and Companion, Sam. Sams, who stood close by him, should not see one blow given, as he hath affirmed to one Mr. Farthing, his Southwark Neighbour, he did not; adding, that he would not forswear himself for all the world. But the Plaintiff was not thus alone more than ordinarily concerned; for his Counsel were the same, otherwise at the opening of the Cause, they would not impertinently, and from the matter, have inferred Mr. Bethel's quarrelsome and rude intentions, from the Company that came first into the Burrough with him, whom they rendred to be none but debauched God Dammec's, though when it was put upon them to declare who they were that swore at that rate, they could not instance in any, save one, whom they described by his riding first, as not daring to name him: And were it true, that such a person was in the Company, it was as uncharitable a Synecdoche, to condemn a considerable number of grave and sober Citizens, who never were known to be guilty of Swearing or Cursing, for the fault of one man, as it was indecent in them to describe reproachfully a Person of great Quality, because they durst not name him: But to make amends for this, in the Case of a fellow Commoner, after a Fine of five Marks was laid upon Mr. Bethel, the same Counsel moved to have him taken into Custody, until he paid the Money, insinuating thereby, that otherwise he might run away, and defraud the Baliff of his Fine.

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Mr.

My Recorder not being at the Court, he who in his absence gave Directions to the Jury, told them, That they had Mason's positive Oath, that One Affirmative was better than Forty Negative Oaths, and therefore they must either find Bethel Guilty, or they would make Mason perjured. Which passing for Law with the Jury, they brought him in Guilty of the Assault and Batterie.

The Bench being now to set the Fine, my Lord Mayor and Sir Thomas Allen (considering the nature of the Action) thought 3 s. 4 d. enough, but the rest were for several higher Sums, yet at last all centred in Five Marks. And thus the whole matter is left to the Reader, to make what Judgment and Conclusions he pleaseth upon it.

FINIS.